

ARTICLE 9

NONCONFORMING USES

;SECTION 9-1. Extension of Nonconforming Uses and Reconstruction and Extension of Nonconforming Buildings. Whenever land is being lawfully used for a use not conforming to this code, other than stone quarrying, such use may be extended on the same lot or on an adjoining lot; provided that after public notice and hearing and subject to the provisions of Sections 6-2, 6-3 and 6-4, the Board of Appeal grants permission for such extension; and provided further that the use as extended shall not exceed by more than twenty-five percent either in volume or in area the nonconforming use existing on the effective date of this code or, in the case of a use made nonconforming by an amendment of this code, on the effective date of such amendment.

Whenever a building or structure is being lawfully used for a use not conforming to this code, such building or structure may be reconstructed, structurally changed or extended; provided that after public notice and hearing and subject to the provisions of Sections 6-2, 6-3 and 6-4, the Board of Appeal grants permission for such reconstruction, structural change or extension; provided also that the building or structure as reconstructed, structurally changed or extended shall not exceed by more than twenty-five percent either in volume or in area the building or structure existing on the effective date of this code or, in the case of a building or structure made nonconforming by an amendment of this code, on the effective date of such amendment; and provided further that the aggregate amount expended for reconstructing, structurally changing or extending a nonconforming building or structure after the effective date of this code, or, in the case of a building or structure made nonconforming by an amendment to this code, after the effective date of such amendment, shall not exceed fifty percent of the physical value of the building or structure on the effective date of this code or such amendment as determined by the Board of Appeal from its reproduction cost less physical deterioration. Said limit on the amount expended for reconstructing, structurally changing or extending a nonconforming building or structure shall not apply to any alteration of a structure, or of a structure in a district, which is listed in the National Register of Historic Places or which has been designated by the Boston Landmarks Commission in accordance with Chapter 772 of the Acts of 1973.

(;As amended on March 26, 1982)

;SECTION 9-1A. Hours of Operation of Nonconforming Use. In any district where residential uses are allowed, an extension of the hours of operation of a nonconforming business or industrial use into the period between 12 midnight and 6 A.M. shall be deemed to constitute an extension of a nonconforming use and is subject to the provisions of Section 9-1. For purposes

of this section, "business" shall include uses listed under Use Item Nos. 34 through 36A, 39 through 52, 54 through 57, 60 and 60A; "industrial" shall include uses listed under Use Item Nos. 68 through 70.

(;As inserted on June 7, 1978)

SECTION 9-2. Change in Nonconforming Use. If on the effective date of this code or of any amendment thereof a structure or land is being lawfully used for a use not conforming to this code or such amendment, such structure or land may be used for another nonconforming use; provided that after public notice and hearing and subject to the provisions of Sections 6-2, 6-3 and 6-4, the Board of Appeal grants permission for such substitute nonconforming use; and provided further that upon the use of such structure or land for such substitute nonconforming use, the right to use such structure or land for the former nonconforming use shall terminate.

SECTION 9-3. Effect of Non-Use of Nonconforming Use. If on the effective date of this code, a structure or land is being lawfully used for a use not conforming to this code, in order not to unduly prolong the life of such nonconforming use, the subsequent non-use of such structure or land for such nonconforming use for a period of twenty-four consecutive calendar months shall terminate the right to use such structure or land for such nonconforming use. So also, if on the effective date of any amendment to this code a structure or land is being lawfully used for a use not conforming to such amendment, in order not to unduly prolong the life of such nonconforming use, the subsequent non-use of such structure or land for such nonconforming use for a period of twenty-four consecutive calendar months shall terminate the right to use such structure or land for such nonconforming use. For the purpose of this section, whenever a structure or land is not being actively used for a nonconforming use, there shall be deemed to be a non-use for such nonconforming use.